

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AYLUS NETWORKS, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 13-cv-04700-EMC (KAW)

**ORDER REGARDING JOINT
DISCOVERY LETTERS**

Re: Dkt. Nos. 103, 109

The parties to the above-captioned case filed a joint discovery letter, Dkt. No. 103, on February 4, 2015. The matter was referred to the undersigned on February 10, 2015, and the parties were ordered to submit a supplemental joint letter that conformed to this Court's General Standing Order. The Court also gave specific instructions regarding the content of that filing:

At a minimum, Aylus shall identify the specific RFPs at issue, Apple shall explain in detail how producing the requested documents will create a burden, and both parties shall discuss whether that burden justifies limiting discovery on any ground set forth in Federal Rule of Civil Procedure 26(b)(2)(C).

(Feb. 11, 2015 Order, Dkt. No. 106.)

The parties did not follow the Court's instructions. Instead, they filed another joint letter, Dkt. No. 109, in which: (1) the parties dispute the date by which Apple should complete the document production related to Aylus' First Set of Requests for Production of Documents, (2) Aylus requests that "the Court require the parties to agree to meet and confer and provide any written response to a discovery dispute letter within 2 business days of any future identified discovery dispute," and (3) the parties discuss issues concerning the deposition of Apple's Rule 30(b)(6) witness.¹

¹ To avoid any confusion in the future, the parties are on notice that disputes concerning distinct discovery devices should be briefed in separate joint letters. *See* Judge Westmore's General Standing Order ¶ 13 ("The parties shall file a separate joint letter for each discovery dispute (i.e. if the parties have disputes regarding specific interrogatories and requests for production, they must file two letters)."). The parties should also understand that they shall use any future joint letters to express their substantive positions rather than their distaste for the opposing party's purported

1 As to the first issue, had the parties complied with the Court's instructions, the Court would
2 now have an understanding of any outstanding document production, could order any additional
3 document production, and could specify a date by which any such additional document production
4 should be completed. In the parties' new joint letter, however, "Aylus has removed the section
5 regarding individual RFPs" and elected to continue to meet and confer with Apple on the issue.
6 (Feb. 4, 2015 Joint Ltr. at 1.)

7 In light of this, Aylus' renewed request for a date certain seems inappropriate.² In meeting
8 and conferring on any outstanding document production, the parties should also agree on a date by
9 which any such document production should be completed. If the parties' meet and confer efforts
10 fail, then they shall file a separate joint letter that conforms to this Court's General Standing Order
11 and includes the information specified in the Court's February 11, 2015 order. If the parties file
12 another joint letter on this topic, and the Court orders additional production of documents, it will
13 set a deadline by which that production is to be completed. Given that the parties have scheduled
14 a further meet and confer for February 19, 2015, any further joint letter on this topic shall be filed
15 by no later than March 4, 2015. If no joint letter is filed by that date, the Court will consider these
16 issues waived.

17 As to Aylus' request for an expedited joint letter process, this Court's General Standing
18 Order sets out the procedures that govern discovery disputes. These procedures allow a party to
19 move for a telephonic conference when another party is refusing to meet and confer or refusing to
20 provide its portion of a joint letter. *See* Judge Westmore's General Standing Order ¶ 16. Aylus
21 has not advanced any argument or provided any authority necessitating a departure from these
22 procedures in this case. The parties are reminded that the non-expert discovery cut-off in this
23 action is June 4, 2015. They should schedule meet and confer sessions sufficiently in advance so
24 that they may bring any unresolved discovery disputes to the Court's attention in a timely fashion.

25 With respect to the parties' dispute regarding Apple's Rule 30(b)(6) witness, the parties
26 shall meet and confer to resolve any objections to the deposition notice as well as any scheduling

27 discovery tactics.

28 ² At a minimum, it makes Aylus' statement that it has withdrawn the dispute concerning
outstanding production seem inaccurate.

1 matters. Within 7 days of this order, Apple shall propose three dates for the deposition of its Rule
2 30(b)(6) witness. If the parties fail to resolve these issues on their own, they shall file a separate
3 joint letter, and the Court will rule on any unresolved objections and select a date on which Apple
4 will make its Rule 30(b)(6) witness available for deposition.

5 **IT IS SO ORDERED.**

6 Dated: 02/25/15

7 
8 KANDIS A. WESTMORE
United States Magistrate Judge

United States District Court
Northern District of California